

may transmit to the officer charged with the settlement thereof the papers on file in the Office of the Clerk relating to such claim. The Clerk may lend temporarily to an officer or bureau of the executive departments any papers on file in the Office of the Clerk relating to any matter pending before such officer or bureau, taking proper receipt therefor.

Before the House recodified its rules in the 106th Congress, this provision was found in former rule XXXVII (H. Res. 5, Jan. 6, 1999, p. 47). It was adopted initially in 1873 and amended in 1880 (V, 7256). It was renumbered January 3, 1953 (p. 24). Gender-based references were eliminated in the 111th Congress (sec. 2(l), H. Res. 5, Jan. 6, 2009, p. 7).

The House usually allows the withdrawal of papers only in cases in which there has been no adverse report. As the rules for the order of business give no place to the motion to withdraw, it is made by unanimous consent (V, 7259). The House formerly adopted a privileged resolution at the beginning of each Congress authorizing the Clerk to furnish certified copies of certain types of House papers subpoenaed by courts upon determination of relevancy by the court, but not permitting production of executive session papers or transfer of original papers (Jan. 3, 1973, p. 30).

See rule VIII for procedure for response to subpoenas for papers of the House.

## RULE VIII

### RESPONSE TO SUBPOENAS

1. (a) When a Member, Delegate, Resident Commissioner, officer, or employee of the House is properly served with a judicial subpoena or order, such Member, Delegate, Resident Commissioner, officer, or employee shall comply, consistently with the privileges and rights of the House, with the judicial subpoena or order as hereinafter provided, unless otherwise determined under this rule.

§ 697. Response to subpoenas.

(b) For purposes of this rule, “judicial subpoena or order” means a judicial subpoena or judicial order directing appearance as a witness relating to the official functions of the House or for the production or disclosure of any document relating to the official functions of the House.

2. (a) Upon receipt of a properly served judicial subpoena or order, a Member, Delegate, Resident Commissioner, officer, or employee of the House shall promptly notify the Speaker in writing of its receipt together with either:

(1) a determination as to whether the issuance of the judicial subpoena or order is a proper exercise of jurisdiction by the court and is consistent with the privileges and rights of the House; or

(2) a statement that such Member, Delegate, Resident Commissioner, officer, or employee of the House intends to make a determination with respect to the matters described in subparagraph (1).

(b) The notification required by paragraph (a) shall promptly be laid before the House by the Speaker.

3. (a) Except as specified in paragraph (b) or otherwise ordered by the House, upon notification to the House that a judicial subpoena or order is a proper exercise of jurisdiction by the court and is consistent with the privileges and rights of the House, the Member, Delegate, Resident Commissioner, officer, or employee of the House shall comply with the judicial subpoena or order by supplying copies.

(b) Under no circumstances may minutes or transcripts of executive sessions, or evidence of witnesses in respect thereto, be disclosed or copied. During a period of recess or adjournment of longer than three days, the Speaker may authorize compliance or take such other action as the Speaker considers appropriate under the circumstances. Upon the reconvening of the House, all matters that transpired under this clause shall promptly be laid before the House by the Speaker.

4. Nothing in this rule shall be construed to deprive, condition, or waive the constitutional or legal privileges or rights applicable or available at any time to a Member, Delegate, Resident Commissioner, officer, or employee of the House, or of the House itself, or the right of such Member, Delegate, Resident Commissioner, officer, or employee, or of the House itself, to assert such privileges or rights before a court in the United States.

Before the House recodified its rules in the 106th Congress, this provision was found in former rule L (H. Res. 5, Jan. 6, 1999, p. 47). It was added initially in the 97th Congress (H. Res. 5, Jan. 5, 1981, p. 98). Until the 95th Congress, whenever a Member, officer, or employee received a subpoena, the House would adopt a resolution authorizing the person to respond. In the 95th and 96th Congresses general authority was granted to respond to subpoenas without the necessity of a House vote (H. Res. 10, Jan. 4, 1977, p. 73; H. Res. 10, Jan. 15, 1979, p. 19). This standing authority was clarified and revised later in the 96th Congress (H. Res. 722, Sept. 17, 1980, pp. 25777–90) and formed the basis for the present rule. In the 107th Congress the rule was amended to broaden its application to administrative subpoenas (sec. 2(c), H. Res. 5, Jan. 3, 2001, p. 25), but this change was reversed in the 115th Congress (sec. 2(k), H. Res. 5, Jan. 3, 2017, p. \_\_). The rule was re-written entirely in the 115th Congress to consolidate and clarify the notification process and eliminate a

requirement that the Clerk transmit a copy of this rule to the court (sec. 2(k), H. Res. 5, Jan. 3, 2017, p. \_\_).

In the 102d Congress the House considered as questions of the privileges of the House resolutions: responding to a subpoena for records of the “bank” in the Office of the Sergeant-at-Arms (Apr. 29, 1992, p. 9753); responding to a contemporaneous request for such records from a Special Counsel (Apr. 29, 1992, p. 9763); and authorizing an officer of the House to release certain documents in response to another such request from the Special Counsel (May 28, 1992, p. 12790).

A response to an administrative subpoena also raises a question of the privileges of the House (Deschler, ch. 11, § 14.8). A Member or employee receiving such a subpoena may inform the House (July 30, 1998, p. 18298; May 3, 1999, p. 8040).

Although clause 2 requires the Speaker to promptly lay before the House a communication notifying the Speaker of the receipt of a subpoena, the rule does not require that the text of a subpoena be printed in the Record (July 31, 1992, p. 20602).

## RULE IX

### QUESTIONS OF PRIVILEGE

1. Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; and second, those affecting the rights, reputation, and conduct of Members, Delegates, or the Resident Commissioner, individually, in their representative capacity only.

§ 698. Definition of questions of privilege.

2. (a)(1) A resolution reported as a question of the privileges of the House, or offered from the floor by the Majority Leader or the Minority Leader as a question of the privileges of the House, or offered as privileged under clause 1, section 7, article I of the Constitution, shall have precedence of all other questions except motions to adjourn. A resolution offered from the floor by a Member, Dele-

§ 699. Precedence of questions of privilege.